

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  ELECTRIC ENERGY ADJUSTMENT CLAUSE	DOCKET NO. RMU-03-17
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**ORDER GRANTING PETITION AND COMMENCING RULE MAKING**

(Issued January 16, 2004)

On November 20, 2003, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed with the Utilities Board (Board) a petition for rule making. Consumer Advocate proposes changes to the electric energy adjustment clause (EAC) rule, 199 IAC 20.9. Currently, only identified energy costs are permitted to be recovered through the EAC. Consumer Advocate proposes that the rules be revised to require that all demand charges explicitly identified in current and future purchase power contracts, less the demand charges included in base rates, be recovered through the EAC. Any demand charges would then be removed from base rates in an electric utility's next rate case proceeding. Consumer Advocate states this approach would allow a utility with an EAC the opportunity to fully recover all of its reasonably incurred purchased power costs while at the same time prevent the over-recovery of such costs.

Interstate Power and Light Company (IPL) filed a response to the petition for rule making on January 2, 2004. IPL did not take a position on Consumer Advocate's proposed rule changes at this time, but disagreed with Consumer

Advocate's arguments in support of the changes. IPL also pointed out that it plans to file a petition for additional changes to the EAC rules when firm information about the Midwest Independent System Operator's (MISO's) "Day 2" market is available. IPL expects to file a rule making petition in April and noted that the Board may want to consider addressing Consumer Advocate's proposed changes at the same time.

The Large Energy Group (LEG), consisting of General Mills, Inc., Penford Products Company, PMX Industries, Inc., Quaker Oats, Rockwell Collins, and Weyehaeuser Company, filed a response on January 9, 2004. The LEG noted that there have been ongoing concerns with the EAC and applauds Consumer Advocate for moving ahead to address the issue. However, the LEG believes a rule making is premature and that an inquiry should be opened to examine whether the EAC should be eliminated in its entirety or restructured to exclude any demand components.

Consumer Advocate's petition for rule making highlights concerns with the potential over-recovery of demand charges as existing purchase power contracts expire. Under the current rules, the demand charges for expired contracts continue to be included in the utility's base rates, at least until the utility's next rate review proceeding. At the same time, new purchase power contracts may replace some or all of what were formerly demand charges with new energy charges, which are recoverable through the EAC. The result could be an over-recovery of demand charges. These concerns were explored in IPL's recent rate case proceeding, Docket Nos. RPU-02-3 and RPU-02-8.

The proposed rule changes are intended to eliminate or reduce the possibility of over-or under-recovery and any incentive to structure a contract with either energy

or demand charges. While it might be more efficient to consider IPL's additional changes to the EAC at the same time, the Board does not want to delay initial consideration of Consumer Advocate's proposed changes until April (or later). These changes should be addressed now and not addressed on a time schedule that is dependent on MISO and its "Day 2" market rules and procedures. The concerns raised by the LEG can be addressed in rule making comments. If necessary, the Board can subsequently terminate this rule making and open an inquiry, or adopt something similar to Consumer Advocate's proposal as a stopgap measure while wholesale changes to the EAC are examined.

The Board will, therefore, grant the petition for rule making and commence a rule making proceeding to consider the adoption of Consumer Advocate's proposed changes, pursuant to the authority of Iowa Code §§ 17A.4, 476.1, and 476.6(11). The proposed amendments are attached hereto and incorporated herein by reference. The reasons for proposing these amendments are set forth in this order and in the attached notice of intended action.

**IT IS THEREFORE ORDERED:**

1. The joint petition for rule making filed by the Consumer Advocate Division of the Department of Justice on November 20, 2003, is granted.
2. A rule making proceeding, identified as Docket No. RMU-03-17, is commenced for purposes of receiving comments upon the proposed rules attached to this order in the notice of intended action.

3. The Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin a notice in the form attached to and incorporated by reference in this order.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 16<sup>th</sup> day of January, 2004.

## **UTILITIES DIVISION [199]**

### **Notice of Intended Action**

Pursuant to Iowa Code sections 17A.4, 476.1, and 476.6(11), the Utilities Board (Board) gives notice that on January 16, 2004, the Board issued an order in Docket No. RMU-03-17, In re: Electric Energy Adjustment Clause, "Order Granting Petition and Commencing Rule Making." The Board is publishing proposed amendments to 199 IAC 20.9, the energy adjustment clause (EAC) rule, in response to a petition for rule making filed with the Board by the Consumer Advocate Division of the Department of Justice (Consumer Advocate).

Currently, only identified energy costs are permitted to be recovered through the EAC. Consumer Advocate proposes that the rules be revised to require that all demand charges explicitly identified in current and future purchase power contracts, less the demand charges included in base rates, be recovered through the EAC. Any demand charges would then be removed from base rates in an electric utility's next rate case proceeding. Consumer Advocate states this approach would allow a utility with an EAC the opportunity to fully recover all of its reasonably incurred purchased power costs while at the same time prevent the over-recovery of such costs.

Interstate Power and Light Company (IPL) filed a response to the petition for rule making on January 2, 2004. IPL did not take a position on Consumer Advocate's proposed rule changes at this time, but disagreed with Consumer

Advocate's arguments in support of the changes. IPL also pointed out that it intends to file a petition for additional changes to the EAC rules when firm information about the Midwest Independent System Operator's (MISO's) "Day 2" market is available. IPL expects to file a rule making petition in April and suggested that the Board may want to consider addressing Consumer Advocate's proposed changes at the same time.

The Large Energy Group (LEG) filed a response on January 9, 2004. The LEG noted that there have been ongoing concerns with the EAC and that an inquiry should be opened to examine whether the EAC should be eliminated entirely or restructured to exclude any demand components.

While it is possible that it would be more efficient to consider IPL's and Consumer Advocate's changes to the EAC rule at the same time, the Board does not want to delay initial consideration of Consumer Advocate's proposed changes until April (or later, if MISO's actions are delayed). Consumer Advocate's proposed changes should be addressed now, not on a time schedule that is dependent on MISO and its "Day 2" market rules and procedures. The concerns raised by the LEG can be addressed in the rule making comments. If necessary, the Board can subsequently terminate this rule making and open an inquiry, or adopt something similar to Consumer Advocate's proposal as a stopgap measure while wholesale changes to the EAC are examined.

Pursuant to Iowa Code sections 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendments. The statement may be filed on or before February 24, 2004, by filing an original

and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author's name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

A public hearing to receive comments on the proposed amendment will be held at 10 a.m. on March 3, 2004, in the Board's hearing room at the address listed above. The Board does not find it necessary to propose a separate waiver provision in this rule making. The Board's general waiver provision in 199 IAC 1.3 would be applicable to this rule.

This amendment is intended to implement Iowa Code sections 476.6(11).

The following amendments are proposed.

Item 1. Amend rule 20.9 as follows.

**199-20.9(476) Electric energy sliding scale or automatic adjustment.** A rate-regulated utility's sliding scale or automatic adjustment of the unit charge for electric energy shall be an energy clause. For purposes of 20.9:

Capacity revenues recorded in Uniform System of Accounts for Electric Utilities account 447 are treated the same as energy revenues recorded in account 447; and

Capacity expenses recorded in account 555 are treated the same as energy expenses recorded in account 555.

Item 2. Amend the fifth and sixth paragraphs of 20.9(2)2, the definitions of EQ<sub>0</sub> and EQ<sub>1</sub>, as follows:

$EQ_0$  is the estimated electric energy to be consumed or delivered and entered in accounts 440, 442, 444-76, ~~excluding energy from distinct interchange deliveries entered into account 447~~ and including intrautility energy service as included in accounts 448 and 929 of the Uniform System of Accounts during the month in which  $E_0$  will be used.

$EQ_1$  is the estimated electric energy to be consumed or delivered and entered in accounts 440, 442, 444-76, ~~excluding energy from distinct interchange deliveries entered in account 447~~ and including intrautility energy service as included in accounts 448 and 929 of the Uniform System of Accounts during the month prior to  $EQ_0$ .

Item 3. Amend 20.9(2)(2)"b"(5) as follows:

(5) The ~~energy~~ costs paid for energy and capacity purchased under ~~arrangements or contracts for firm power, operational control energy, outage energy, participation power, peaking power, and economy energy,~~ as entered into account 555 of the Uniform System of Accounts, less the energy and capacity revenues ~~to be recovered from corresponding sales,~~ as entered in account 447 of the Uniform System of Accounts.

January 16, 2004

/s/ Diane Munns

Diane Munns  
Chairman